

# LABOR NEWS

*A Publication of the* ARKANSAS DEPARTMENT OF LABOR

Mike Huckabee, Governor

Vol. 27, No. 2, Summer, 2004

James L. Salkeld, Director

## SCHOOL IS OUT AND WORK IS IN! Are your teens ready?

by Cindy Uhrynowycz  
Labor Standards Administrator



**I**t's summertime! For many Arkansas teenagers, summertime won't be about sleeping late and swimming everyday. Many teens will work this summer, some of those for the first time.

It is important for employers and teens to know some basic facts about teens under the age of eighteen in the workplace. **REMEMBER** any teen worker who is fourteen or fifteen must have a work permit issued by the Arkansas Department of Labor before beginning work. Teens under the age of fourteen may not work, except in businesses owned by their parents. There are limits in both state and federal law on the hours teens can work and the type of jobs they can do. These limits help insure that teen workers stay safe and healthy, and there are money penalties that apply for violations. These restrictions include, but are not limited to:

✓ **14 & 15 year olds** may not work before 7:00 a.m. or later than 9:00 p.m. and no more than 8 hours per day or 40 hours per week in the summer. When school is in session, they may not work more than 18 hours per week or 3 hours per day.

✓ **16 & 17 year olds** may not work before 6:00 a.m. or more than 10 hours a day or 54 hours a week when school is not in session, and not later than 11:00 p.m. when school is in session.

✓ **14 & 15 year olds** may not be employed in jobs where they use power tools, including lawn mowers and weed eaters, and power driven meat cutters. They may not work in construction, including remodeling; manufacturing; warehousing; as a public messenger; operate hoisting machinery or power driven machinery; public utilities, or transportation. They may not work in or on scaffolding, excavation, mining, soldering, laundering machines or with poisonous acids, gases or other chemicals.

✓ **16 & 17 year olds** are restricted by federal law from certain jobs. Those jobs include occupations involving the manufacture of explosives; operating motor vehicles; coal mining; logging; operating wood working machines; power driven meat slicers; operating power driven bakery machines; operating power-driven paper product machines, including cardboard and paper compacting and bailing machines; roofing operations; excavation or demolition.

For more detailed information regarding rules for teen workers, the *(continued on page 2 – See Teens)*

## NEW FEDERAL OVERTIME REGS ADDRESSED

**N**ew federal overtime regulations become effective August 23, 2004. These new regulations will not impact employers covered by the state minimum wage and overtime law, only those covered by the federal Fair Labor Standards Act (FLSA).

So how do you determine if federal law covers you? There are two ways an employee can be covered by federal law: enterprise coverage or individual coverage.

Employees who work for certain businesses or "enterprises" are covered. These are businesses that gross at least \$500,000 a year in business, as well as hospitals, nursing homes, schools, day cares, and government agencies. Additionally, even if the employer or business itself is not covered, an individual employee may be covered if he or she is engaged in interstate commerce.

The U.S. Department of Labor (DOL) has issued general information on their website about the revised federal overtime exemptions as defined by Regulations, 29 CFR Part 541. Some significant provisions and how they operate are addressed below. For more information on these exemptions, visit the DOL's FairPay Web site at [www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm](http://www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm)

### **Executive, Administrative, Professional, Outside Sales, and Computer Employees**

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

### **Highly Compensated Employees**

Highly compensated employees performing office or non-manual work and paid total annual compensation of \$100,000 or more (which must include at least \$455 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.

### **Blue Collar Workers**

The exemptions provided by FLSA Section 13(a)(1) apply only to "white collar" employees who meet the salary and duties tests set forth in the Part 541 regulations. The exemptions do not apply to manual laborers or other "blue collar" workers who perform work involving repetitive operations with their hands, physical skill and energy. FLSA-covered, non-management employees in production, maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the FLSA, and are not exempt under

the Part 541 regulations no matter how highly paid they might be.

### **Police, Fire Fighters, Paramedics & Other First Responders**

The exemptions also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.

### **Other Laws & Collective Bargaining Agreements**

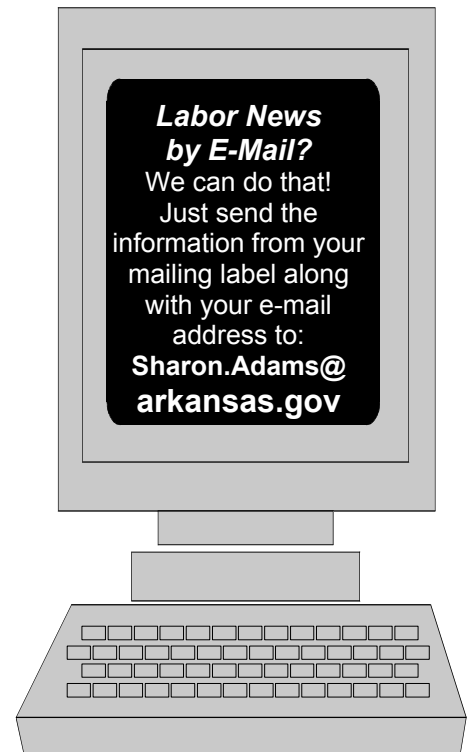
The FLSA provides minimum standards that may be exceeded, but cannot be waived or reduced. As previously stated, employers must comply with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the FLSA. Similarly, employers may, on their own initiative or under a collective bargaining agreement, provide a higher wage, shorter workweek, or higher overtime premium than provided under the FLSA. While collective bargaining agreements cannot waive or reduce FLSA protections, nothing in the FLSA or the Part 541 regulation relieves employers from their contractual obligations under such bargaining agreements.

### **Where to Obtain Additional Information**

For more information regarding the new overtime regulations and the FLSA, visit the DOL's Wage and Hour Division's Web site at [www.wagehour.dol.gov](http://www.wagehour.dol.gov) or call their toll-free help line, available from 8 a.m. to 5 p.m. in your time zone, at 1-866-4US-WAGE (1-866-487-9243).

### **TEENS (Contd. from pg. 1)**

Arkansas Department of Labor offers, free of charge, two publications: *Arkansas Child Labor Laws and Administrative Regulations*, and *A Guide to Child Labor Laws In Arkansas*. To receive these publications, or for more information on child labor, call the Arkansas Department of Labor, Labor Standards Division at 501-682-4500.





## IN THE WORKS

☞ Repetitive motion, such as grasping tools, scanning groceries, and typing, resulted in the longest absences from work among the leading events and exposures in 2002 – a median of 23 days. The next longest median absence (14 days) was due to falls to lower levels, followed by fires and explosions, and transportation accidents (12 days each). Falls on the same level had a median of 9 days.

☞ Of the 2.7 million youth who graduated from high school in 2003 and went on to attend college in the fall, the enrollment rate for Asian graduates (84.1 percent) was much higher than for white graduates (65.0). Black and Hispanic graduates were about equally likely to be college students in the fall – 58.3 and 58.6 percent, respectively.

☞ The labor force participation rate for mothers of infants fell by 2.4 percentage points to 53.7 percent in 2003. This rate has fallen almost every year since 1998, when it was 57.9 percent. For married mothers with infants, the participation rate continued its downward trend, falling by 1.8 percentage points in 2003 to 52.9 percent. The participation rate for unmarried mothers with infants fell by 4.7 percentage points to 56.2 percent.

☞ The Consumer Price Index for telephone services decreased 2.7 percent in 2003, following a 0.2-percent increase in 2002. Local telephone charges rose 2.6 percent in 2003. Interstate long distance telephone call charges decreased 10.9 percent. Intrastate long distance charges decreased 9.4 percent. Cellular telephone service charges decreased 1.3 percent last year.



## LETTERS OF THE LABOR LAW

**T**he Arkansas Department of Labor receives over a thousand e-mails each year with questions on various aspects of our state's labor laws. Daniel Faulkner, an attorney with the Arkansas Department of Labor, will clarify some of the more common areas of concern over the next few issues. The following is the third installment.

***Q: How long do I have to work before I get a break? Also, is the employer required to give me a lunch break?***

**A:** Breaks and lunches are not required by state or federal law. Most businesses allow such breaks to promote workplace morale, but actually are not required to do so. Generally, if a break is given and it

is less than 30 minutes, it must be counted as work time.

***Q: How long can my employer work me without a day off?***

**A:** Aside from highly regulated jobs in the transportation industry, there is no employment law limiting the hours an employer can schedule an employee who is over 18. State and federal law simply require one to be paid for all the hours they work in a week, including applicable overtime. However, there are limitations on hours and consecutive days for employees under 18 years of age. Please contact the Arkansas Department of Labor/Labor Standards Division at (501) 682-4500 for more information and a booklet explaining child labor restrictions.

***Q: My employer cut my hours and put me on a different shift than I normally work. Can they do this?***

**A:** Generally, your employer is free to schedule you as they see fit. They must pay you for all hours you physically work, but can limit those hours however they want to, absent any illegal discrimination. Employers may do this to limit the amount of overtime they pay every week.

***Q: I received 8 hours of holiday pay for Memorial***

### LABOR NEWS

A quarterly publication of the Arkansas Department of Labor, 10421 West Markham, Little Rock, Arkansas 72205-2190, phone (501) 682-4500, e-mail [jeanette.donahue@mail.state.ar.us](mailto:jeanette.donahue@mail.state.ar.us). Alternate formats are available upon request. No information published herein should be construed as substituting for policy directives sent through regular channels to personnel.

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Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

E-mail Address \_\_\_\_\_

***Day, but my employer required us to work four 10-hour days this week. Shouldn't I get overtime this week?***

**A:** No. Overtime pay only applies when you physically work over 40 hours in a workweek. The 8 hours of holiday pay is simply a benefit of employment.

***Q: My employer is withholding my last paycheck because I didn't show up for my shift two days last week before I quit. Can they do this?***

**A:** No. Arkansas is an employment-at-will state. That means that you or the employer may end the relationship at any time without penalty. Regardless of the reason you left (or were terminated), your employer cannot hold pay for work you have already performed. If you have not been paid for a certain pay period or for your last pay-period, contact our Labor Standards Division at (501) 682-4500 to file a wage claim for that amount.

## **INCREASES IN 2003 EARNINGS COMPARED**

**M**edian weekly earnings for women rose 4.3 percent from 2002 to 2003, compared with a 2.4-percent increase for men. Over the same period, the Consumer Price Index for All Urban Consumers increased by 2.3 percent.

All the major demographic groups saw earnings growth between 2002 and 2003, and earnings growth outpaced the rise in consumer prices for all groups except white men. Among women, blacks had the largest earnings growth, 3.8 percent, followed by whites, at 3.7 percent. Hispanic women experienced a slightly lower earnings growth of 3.3 percent.

Black men's earnings grew by 5.9 percent over the year, the largest increase in earnings among all the demographic groups.

Hispanic men's earnings grew by 2.9 percent, higher than the white men's 1.9 percent earnings growth.



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KNOW WHAT'S  
REQUIRED TO BE  
POSTED IN YOUR  
WORKPLACE?**

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